

REMARKS

The issues outstanding in the Office Action mailed December 16, 2004, are the rejections under 35 U.S.C §§112, 102 and 103. Reconsideration of these issues, in view of the following discussion, is respectfully requested.

Rejections Under 35 U.S.C §112

Claims 8, 12 and 14 have been rejected under 35 U.S.C §112, second paragraph. Reconsideration of this rejection is respectfully requested.

With respect to claim 8, it is submitted that the recitation that the titanium dioxide coating is "matched to the substrate" is well understood terminology in the art. Not only is this term well known, but matching is discussed and defined in the specification at page 2, the last paragraph and at page 3, the second and third paragraphs. According, in view of the discussion of the term in the specification, and a clear understanding of the term by one of ordinary skill in the art, it is submitted that claim 8 clearly definite. Withdrawal of the rejection, as it pertains to claim 8, is respectfully requested.

The Examiner is thanked for pointing out the typographical error in claim 14, which has been corrected. Claims 12 and 14 are thus not of duplicate scope. Withdrawal of the remainder of the rejections are therefore respectfully requested.

Rejections Under 35 U.S.C §102

Claims 1 - 10 and 12 - 14 have been rejected under 35 U.S.C §102(b) over Bauer (WO '237), commonly assigned with the present application. Reconsideration of this rejection is respectfully requested. The cited application discloses pigments having matrix particles coated with, for example, metal oxides, so that interference colors are produced. See page 9 of the translations, the second full paragraph. In discussing the interference effect, Bauer teaches that the interference or gloss effect occurs when light at the interfaces of the metal oxide layers and surface is in part reflected, the reflected rays interfere with each other, and, where the metal oxide layers are of appropriate thickness, thus produce interference colors. See page 10, the second paragraph.

While Bauer indicates that pigments can be produced with a "color flop", i.e., a viewing-angle-independent body color and viewing-angle-dependent interference color, which color changes from one hue to a second hue, such a color change does not anticipate or suggest *color travel* in which a continuum of color is seen, dependent upon viewing angle. For example, in example 1 of the present application, a silver pigment with color travel from green to red-violet to gold-green is seen; in example 2, a silver pigment with color travel from neutral silver to red-violet to gold-yellow is seen; and in example 3, a silver pigment with color travel from bluish silver to red to gold-green is seen. Bauer does not suggest the production of such a color travel. Nor does Bauer suggest matching of the substrate to the TiO₂ coating, to enhance such effect. See claim 8 herein.

In the examples of Bayer, pigments with angle-dependence of the hue are not produced. Example 15, cited at page 3 of the Office Action (and for that matter example 17) discloses pigments with a substrate which is a doped silica matrix. In example 15, the silica flakes are doped with titania particles and a stabilizer, in example 17 the silica flakes contain a dye. Such materials do not exhibit angle-dependence of the hue, much less color travel.

Accordingly, it is submitted that Bauer does not anticipate, or for that matter, suggest the present claims. Withdrawal of the rejection is therefore respectfully requested.

Claims 1 - 10 and 12 - 14 have also been rejected under 35 U.S.C §102(e) over Bauer '018. Reconsideration of this rejection is also respectfully requested.

Bauer '018, essentially equivalent to the WO discussed previously, also fails to disclose or suggest pigments with a color travel. Therefore, for the reasons discussed above, withdrawal of this rejection is also respectfully requested.

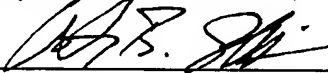
Rejection Under 35 U.S.C §103

Claim 11 has been rejected under 35 U.S.C §103 over Bauer (WO '237) taken with Herget ('563). Reconsideration of this rejection is also respectfully requested. The deficiencies of Bauer are addressed above, and are not remedied by the secondary

reference. For this reason alone, this rejection therefore should be withdrawn. Moreover, Herget also do not teach the use of silver pigments with color travel comprising silica flakes with a specific standard deviation. In view of the high sheer forces taught to be needed in Herget et al. to produce a dry pigment, one of ordinary skill the art would expect these fragile silver pigments would lose their platelet-like shape, and thus obtained irregular granules would not have the desirable color travel. Reconsideration of this rejection on this basis is therefore also respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



Harry B. Shubin, Reg. No. 32,004
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

Attorney Docket No.: MERCK-2854

Date: 16 June 2005

HBS:jqs
K:\Merck\2000 - 2999\2854\REPLY 6-16-05.doc